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Las Vegas Metropolitan Police Department,
8 *Ryan Larson, John Newbold,*
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9
10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 AUSTIN CADEAUX ,

13 Plaintiff,

14 vs.

15 LAS VEGAS METRO POLICE DEPT;
16 OFFICERS JOHN DOE NOS. 1-5,

17 Defendants.

Case No. 2:19-cv-01584-JAD-VCF

**STIPULATION TO EXTEND
DISCOVERY DEADLINES
(3rd Request)
(ECF No. 53)**

18 IT IS HEREBY STIPULATED AND AGREED between Las Vegas Metropolitan Police
19 Department, Ryan Larson, John Newbold, Joshua Byington and Marshall Kobza ("LVMPD
20 Defendants"), by and through their counsel of Kaempfer Crowell, and Plaintiff Austin Cadeaux
21 appearing in Proper Person, that discovery be continued for a period of sixty (60) days up to and
22 including a discovery cutoff date of **July 25, 2022**.

23 The requested extension is necessary because the Parties need additional time to complete
24 discovery since Plaintiff filed an Amended Complaint to include four individual LVMPD

1 Officers. The individual Defendants should be afforded the opportunity to conduct discovery
 2 related to the claims against them and Plaintiff's deposition will need to be coordinated and
 3 taken following an Order from this Court allowing it.

4 **I. BACKGROUND**

5 **A. Procedural History**

6 Plaintiff filed his Complaint in Proper Person on September 25, 2019, against the Las
 7 Vegas Metropolitan Police Department ("LVMPD") and various DOE LVMPD Officers. [ECF
 8 No. 4]. LVMPD filed its Answer to the Complaint on March 16, 2020. [ECF No. 10].

9 Plaintiff filed multiple requests to stay discovery due to being incarcerated and COVID
 10 restrictions in the prison, which the Court granted; ECF Nos. 17 and 28. On July 21, 2021, the
 11 LVMPD Defendants' filed their First Motion to Extend Discovery which this Court granted.
 12 [ECF No. 43]. The LVMPD Defendants filed a Second Motion to Extend Discovery, [ECF No.
 13 48], which this Court granted on January 24, 2022, [ECF No. 53] and provided the current
 14 discovery deadlines:

15	Discovery Cut Off:	May 24, 2022
16	Disclosure of Experts:	March 25, 2022
17	Disclosure of Rebuttal Experts:	April 25, 2022
18	Dispositive Motion Deadline:	June 23, 2022
19	Pre-Trial Order:	July 25, 2022

20 On June 15, 2021, the LVMPD Defendants filed a Motion to Dismiss the DOE
 21 Defendants after the expiration of the deadline to amend pleadings. [ECF No. 32]. Plaintiff filed
 22 a Motion to amend his Complaint. [ECF No. 47]. The LVMPD Defendants opposed; again,
 23 because the request was untimely. [ECF No. 49]. The Court denied the Motion to Dismiss as
 24 moot and granted Plaintiff leave to amend his Complaint to name four individual LVMPD

1 Officers. [ECF No. 53]. The individual LVMPD Officer were served and on March 7, 2022 the
 2 LVMPD Defendants filed their Answer to the Amended Complaint. [ECF No. 61].

3 The LVMPD Defendants have served their initial Rule 26 Disclosures on Plaintiff. As of
 4 the date of filing this Motion, Plaintiff has not provided any disclosures. On August 17, 2021,
 5 LVMPD¹ served Interrogatories and Requests for Admissions on Plaintiff. Plaintiff did not
 6 respond to the written discovery and on October 12, 2021 the LVMPD Defendants through
 7 Counsel sent a letter to Plaintiff demanding the responses on or before October 22, 2021. As of
 8 the date of filing this Motion, Plaintiff has not responded.

9 Plaintiff, however, has served Interrogatories and Requests for Admissions on LVMPD
 10 Defendants. The LVMPD Defendants have responded to Plaintiff's written discovery. The
 11 LVMPD Defendants timely disclosed their expert report. On April 11, 2022, the LVMPD
 12 Defendants filed a Motion to Take Plaintiff's Deposition as he is currently incarcerated at High
 13 Desert State Prison. [ECF No. 65].

14 **B. Discovery that Remains to be Completed.**

15 The individual Officers will serve written discovery on Plaintiff. If the Court issues an
 16 Order to take Plaintiff's deposition, the deposition of Plaintiff will be coordinated and taken at
 17 High Desert State Prison. The LVMPD Defendants' expert will amend/supplement his report to
 18 address the claims against the individual Officers; if necessary.

19 **II. GROUNDS FOR AN EXTENSION**

20 Local Rule 26-3 governs this Stipulation requesting an extension of the discovery
 21 deadlines. This Local Rule imposes a good cause standard to earn the extension:

22 A motion or stipulation to extend a deadline set forth in a discovery plan
 23 must be received by the court no later than 21 days before the expiration

24 ¹ Until March 7, 2022, LVMPD was the only appearing Defendant in this case.

1 of the subject deadline. A request made within 21 days of the subject
2 deadline must be supported by a showing of good cause. A request made
3 after the expiration of the subject deadline will not be granted unless the
movant also demonstrates that the failure to act was the result of excusable
neglect.

4 Here, good cause supports extending the discovery cutoff deadline, dispositive motions deadline,
5 and pretrial order deadline.

6 **1. *Reasons for the Extension***

7 As noted in the LVMPD Defendants' prior requests to extend, Plaintiff has not provided
8 any Rule 26 Disclosures whatsoever and has failed to respond to all written discovery
9 propounded on him, including Requests for Admissions. The LVMPD Defendants may likely
10 only get the information related to Plaintiff's claims and their defenses by deposing Plaintiff.
11 The LVMPD Defendants have filed a Motion to take the deposition but it is still outstanding and
12 once an Order is obtained additional time will be needed to coordinate a date to take Plaintiff's
13 deposition.

14 Finally, but equally important, Plaintiff was given leave to amend his Complaint to name
15 four individual Officers. This was done with little to no time left for the individual Officers to
16 have an opportunity to conduct discovery related to the claims against them. The individual
17 Officers should be allowed additional time to serve written discovery on Plaintiff and
18 additionally, the LVMPD Defendants expert should be given additional time to
19 supplement/amend his report for the new claims against the individual Officers.

20 **2. *Good Faith Efforts Supporting the Requested Extension***

21 The LVMPD Defendants prepared and forwarded this Request to Plaintiff prior to
22 deadline for the parties to seek an extension. Plaintiff has agreed that more time is needed and
23 signed this Stipulation.

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1 **3. *Length of Delay and Potential Impact on the Proceedings***

2 A trial date has not been set in this case. Accordingly, granting the Stipulation will not
3 create unnecessary delay in resolving this case on its merits.

4 **4. *No Prejudice Would Arise***

5 No party will be prejudiced if the requested extension occurs. Plaintiff was just given
6 leave to amend his complaint to name four individual LVMPD Officers. Now, in turn, the
7 LVMPD Defendants should be afforded additional time to vet the claims against them and their
8 expert given time to determine if his report needs to be amended/supplemented. Indeed, the
9 LVMPD Defendants would be at a disadvantage if they are not given sufficient time to conduct
10 some minimal discovery.

11 **III. PROPOSED EXTENDED DEADLINES**

12 The Parties respectfully request that this Court enter an order as follows:

Deadline	Current Date	Proposed New Date
Discovery Cutoff	May 24, 2022	July 25, 2022
Dispositive Motions Deadline	June 23, 2022	August 24, 2022
Joint Pretrial Memorandum Order Deadline	July 25, 2022	September 23, 2022

If dispositive motions are filed, the deadline for filing the joint pretrial order will be suspended until 30 days after decision on the dispositive motions or further court order.

18 **C. *Motions in Limine/Daubert Motions.***

19 Under LR 16-3(b), any motions in limine, including *Daubert* motions, shall be filed and
20 served 30 days prior to the commencement of Trial. Oppositions shall be filed and served and
21 the motion submitted for decision 14 days thereafter. Reply briefs will be allowed only with
22 leave of the Court.

23 **D. *Extensions or Modification of the Discovery Plan and Scheduling Order.***

24 In accordance with LR 26-3, applications to extend any date set by the discovery plan,

1 scheduling order, or other order must, in addition to satisfying the requirements of LR 26-1, be
2 supported by a showing of good cause for the extension. All motions or stipulations to extend a
3 deadline set forth in a discovery plan shall be received by the Court not later than 21 days before
4 the expiration of the subject deadline. A request made after the expiration of the subject deadline
5 shall not be granted unless the movant demonstrates that the failure to set was the result of
6 excusable neglect. Any motion or stipulation to extend a deadline or to reopen discovery shall
7 include:

- 8 (a) A statement specifying the discovery completed;
- 9 (b) A specific description of the discovery that remains to be completed;
- 10 (c) The reasons why the deadline was not satisfied or the remaining discovery was
11 not completed within the time limits set by the discovery plan; and
- 12 (d) A proposed schedule for completing all discovery.

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1 This request for an extension is made in good faith and joined by all the Parties in this
 2 case. The Request is timely pursuant to LR 26-3. Trial is not yet set in this matter and
 3 dispositive motions have not yet been filed. Accordingly, this extension will not delay this case.
 4 Moreover, since this request is a joint request, neither party will be prejudiced. The extension
 5 will allow the parties the necessary time to complete discovery.

6 IT IS SO STIPULATED this 20 day of April, 2022.

7 KAEMPFER CROWELL

8 By: /s/


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 13 *Newbold, Joshua Byington, and*
 14 *Marshall Kobza*

By:

Austin Cadeaux, # 1157138
 High Desert State Prison
 P.O. Box 650
 Indian Springs, NV 89070
Plaintiff in Proper Person

15 **ORDER**

16 IT IS SO ORDERED.

17 
 18 UNITED STATES ~~DISTRICT COURT~~ JUDGE
 Magistrate

19 Dated: 5-2-2022
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